

## **REMARKS**

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being anticipated by United States Patent Number 6,498,038 to Berkowitz et al. (hereinafter “Berkowitz”) in view of United States Patent Application Publication Number 2004/0254964 by Kodama et al. (hereinafter “Kodama”) in further view of United States Patent Publication Number 2003/0084241 by Lubbers et al. (hereinafter “Lubbers”). Claims 2-6, 8-14, 16, 18-23, 25-26, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Berkowitz, Kodama, and Lubbers in view of United States Patent Number 6,934,822 to Armangau et al. (hereinafter “Armangau”).

### **Response to rejections of claims under 35 U.S.C. § 103.**

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being anticipated by Berkowitz in view of Kodama in further view of Lubbers. Claims 2-6, 8-14, 16, 18-23, 25-26, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Berkowitz, Kodama, and Lubbers in view of Armangau. Applicants respectfully traverse these rejections.

Claims 1, 6, 13, 16, 23, and 26 include the limitation of a “...redundancy level indicator configured to select a redundancy in the range of no redundancy to a RAID level 50 redundancy...” Claim 1. See also claims 6, 13, 16, 23, and 26. While the Examiner cites Lubbers as including this limitation, Lubbers instead teaches a “...redundancy storage set selector (RSSS) that includes a redundancy storage set (RSS) identification, a physical member selection, and RAID information...” Lubbers, ¶ 62. Thus Lubbers discloses a physical member selection with RAID information, but does not teach the RSSS *selecting* a redundancy in the

range of no redundancy to a RAID level 50 redundancy.

Lubbers further teaches using volumes with different RAID configurations from RAID 0 to RAID 50. Lubbers, ¶¶ 71-73. However, Lubbers does not disclose a redundancy level indicator configured to select a redundancy in the range of no redundancy to a RAID level 50 redundancy. Applicants therefore submit that claims 1, 6, 13, 16, 23, and 26 are allowable as the cited prior art does not teach each element of the claimed invention. Applicants further submit that claims 2-5, 8-12, 14, 18-22, 25, and 28 are allowable as depending from allowable claims.

Applicants further submit that there is no suggestion to combine the teachings of Lubbers with Berkowitz, Kodama, and Armangau. While Berkowitz, Kodama, and Armangau each teach backup and snapshot functions, Lubbers is instead directed to a virtualized storage system. Berkowitz, Abstract. See also Kodama, Abstract; Armangau, Abstract; Lubbers, Abstract. There is no suggestion for employing the virtualized storage system of Lubbers in backup and/or snapshot functions. Applicants therefore submit that claims 1-6, 8-14, 16, 18-23, 25-26, and 28 are allowable as there is no suggestion to combine Lubbers with Berkowitz, Kodama, and Armangau.

If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

/Brian C. Kunzler/

Brian C. Kunzler  
Reg. No. 38,527  
Attorney for Applicant

Date: December 21, 2006  
8 East Broadway, Suite 600  
Salt Lake City, UT 84111  
Telephone (801) 994-4646  
Fax (801) 531-1929